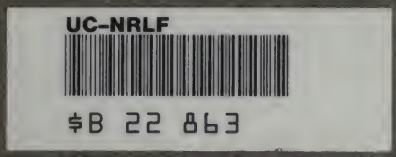
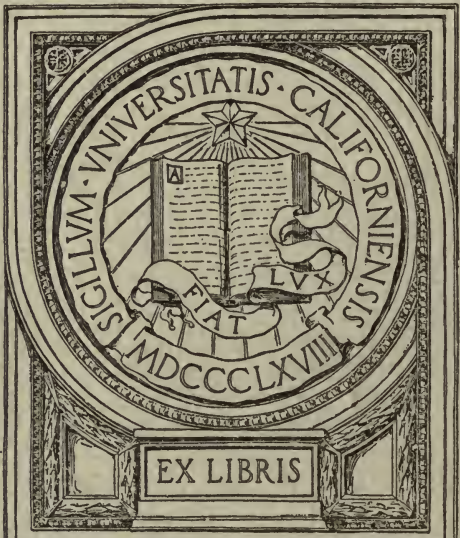
J S
1157
.M7A4
1910



YC 09414

GIFT OF
Modesto - Bd. of Freeholders.



CHARTER

Prepared and Proposed for The

City of Modesto

By the Board of Freeholders Elected on the Eleventh Day of April, A. D. 1910. : : : :

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/charterpreparedp00moderich

ARTICLE I—NAME AND RIGHTS OF THE CITY.
ARTICLE II—BOUNDARIES.
ARTICLE III—POWERS OF THE CITY.
ARTICLE IV—ELECTIONS.
ARTICLE V—ELECTIVE OFFICERS.
ARTICLE VI—THE MAYOR.
ARTICLE VII—THE COUNCIL.
ARTICLE VIII—EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.
ARTICLE IX—FINANCE AND TAXATION.
ARTICLE X—PUBLIC WORK AND SUPPLIES.
ARTICLE XI—FRANCHISES.
ARTICLE XII—THE RECALL.
ARTICLE XIII—THE INITIATIVE.
ARTICLE XIV—THE REFERENDUM.
ARTICLE XV—POLICE COURT.
ARTICLE XVI—EDUCATIONAL DEPARTMENT.
ARTICLE XVII—AMENDMENTS.
ARTICLE XVIII—MISCELLANEOUS.

ARTICLE I.

NAME AND RIGHTS OF THE CITY.

Name of the City.

Section 1. The municipal corporation now existing and known as the City of Modesto shall remain and continue a body politic and corporate in name and in fact, by the name of the City of Modesto.

Rights and Liabilities.

Section 2. The City of Modesto shall remain vested with, and continue to have, hold, and enjoy, all property, rights of property and rights of action of every nature and description now pertaining to this municipality, and is hereby declared to be the successor of the same. It shall be subject to all the liabilities that now exist against this municipality. All ordinances of said City, not in conflict with this Charter, shall be continued in force until amended or repealed; and all proceedings providing for any public improvement pending and uncompleted shall be continued in accordance with the law under which such proceedings were commenced.

ARTICLE II.

Boundaries.

Section 3. The boundaries of the City of Modesto shall be the same as now constituted and more particularly described as follows:

Beginning at the corner, common to Sections 31, 32, 5 and 6, Townships 3 and 4 South, Range nine (9) East, Mount Diablo Base and Meridian in the County of Stanislaus, State of California; thence North along the Section line between Sections 31 and 32, 29 and 30 to the quarter quarter corner between the Northeast quarter of Section 30 and the Northwest quarter of Section 29, Township three (3) South, Range nine (9) East, Mount Diablo Base and Meridian; thence East along the quarter quarter line through the center of the North half of Sections 29 and 28 to the mid-quarter quarter corner of the Northeast quarter of Section 28 in Township three (3) South, Range nine (9) East, Mount Diablo Base and Meridian; thence South on the quarter quarter line to the center of the channel of Dry Creek; thence meandering down stream along the center line of the channel of Dry Creek to a point where the said center line of Dry Creek intersects the center line of the channel of the Tuolumne river; thence meandering down stream along the said center line of the Tuolumne river to a point where said center line intersects the Township line between Townships 3 and 4 South, Range nine (9) East, Mount Diablo Base and Meridian; thence along said Township line to the corner common to Sections 31, 32, 5 and 6, Townships 3 and 4 South, Range nine (9) East, Mount Diablo Base and Meridian, being the point of beginning, all lying and being in the County of Stanislaus, State of California.

The boundaries above described may be altered and the territory embraced therein may be added to or diminished in accordance with the laws of the

293037

summary abatement of any nuisance at the expense of the persons creating, causing, committing or maintaining such nuisance.

Rewards.

(26) To offer rewards not exceeding two hundred and fifty dollars in any one instance for the apprehension and conviction of any person who may have committed a felony in the City, and to authorize the payment thereof.

Engines and Boilers.

(27) To regulate the use of steam engines, gas engines, steam boilers, electric motors, motor cycles, automobiles, and flying devices, and to prohibit their use in such localities as in the judgment of the Council would endanger public safety.

Fire Limits.

(28) To prescribe fire limits and determine the character and height of buildings that may be erected therein and the nature of the materials to be used in the construction, alteration or repair of such buildings or in the repair or alteration of existing buildings within such fire limits.

Building Regulations.

(29) To regulate the construction and the location of, and the materials used in all buildings, chimneys, stacks and other structures; to prevent the erection and maintenance of insecure or unsafe buildings, walls, chimneys, stacks or other structures, and to provide for their summary abatement or destruction; to regulate the materials used in, and the method of construction of foundations and foundation walls, the materials, manner of construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for lighting, power, heat or other purposes, and materials used for piping buildings or other structures for the purpose of supplying the same with water or gas, and the manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

Fire Escapes.

(30) To require the owners and lessees of buildings or other structures to place upon them or in them fire escapes and appliances for protection against fire and for the extinguishment of fires.

Precautions Against Fires.

(31) To prevent the construction and to cause the removal of dangerous chimneys, fireplaces, hearths, stoves, stove pipes, ovens, boilers, apparatus and machinery used in any building in the City; to regulate or prohibit the carrying on of manufactories liable to cause fire; to prevent the depositing of ashes, the accumulation of shavings, rubbish, or any combustible material in unsafe places, and to make provisions to guard against fires.

Provisions for Safety in Theatres, Halls, Etc.

(32) To regulate the size and construction of the entrances to and exits from all theatres, lecture rooms, halls, schools, churches and other places for public gathering of every kind and to prevent the placing of seats, chairs, benches or other obstructions in the hallways, aisles, or open places therein.

Provisions for Safety in Streets.

(33) To regulate the speed of railroad trains, engines, and cars passing through the City and the speed of cars of street or interurban railway companies using the public streets of the City, to require railroad companies to station flagmen, place gates, or viaducts at all such street crossings as the Council may deem proper, to require street cars and local trains to be provided with fenders or other appliances for the better protection of the public; to prohibit the making up of railroad trains on any of the streets, street crossings or street intersections of the City; to regulate the speed with which persons may ride or drive or propel bicycles, motor cycles, automobiles, or other vehicles along or upon any of the streets or highways of the City.

Improper Use of Streets.

(34) To regulate or prohibit the exhibition or carrying of banners, placards, or advertisements, and the distribution of handbills in the streets, public grounds or upon the sidewalks; to regulate and prevent the flying of banners, flags or signs across the streets or from houses; to regulate or prohibit traffic and sales in the streets and public places; to prevent encroachments upon or obstructions to the streets, and to require their removal.

Weeds and Rubbish on Sidewalks.

(35) To compel the owner or occupant of buildings or grounds to remove dirt, rubbish and weeds therefrom and from the alley and sidewalk thereof and in his default to authorize the removal or destruction thereof by some officer of the City at the expense of such owner or occupant, and to make such expense a lien upon such buildings or grounds.

Billboards and Signs.

(36) To regulate, license or prohibit the construction and use of billboards and signs.

Dogs.

(37) To regulate and prevent the running at large of dogs, to provide for the killing of vicious dogs, and to require the payment of license fees by the owners or persons having possession of dogs, and to impose penalties upon such persons for refusing to pay such license fees.

Public Pound.

(38) To prevent or regulate the running at large of any animals, and to establish and maintain a pound and authorize the destruction or other disposition of any animals running at large.

Preservation of Health.

(39) To make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease; to make regulations to prevent the introduction of contagious, malignant, infectious or other diseases into the City; to make quarantine laws and regulations; to regulate, control and prevent the entry into the City of persons, baggage, merchandise or other property infected with contagious disease.

Dangerous and Offensive Occupations; Disagreeable Noises.

(40) To regulate or prohibit the operation of all manufactories, occupations or trades which may be of such a nature as to affect the public health or good order of the City or disturb the public peace, or which may be offensive or dangerous to the inhabitants residing in the vicinity, and to provide for the punishment of all persons violating such regulations and the punishment of all persons who may permit the same to be violated in any building or upon any premises owned or controlled by them; to make regulations for the suppression of disagreeable, offensive and injurious noises.

Inspection of Food Products.

(41) To provide for and regulate the inspection by the Health Officer of meats, poultry, fish, game, bread, butter, cheese, lard, eggs, vegetables, breadstuffs, milk and other food products offered for sale in the City, and to provide for the taking and summarily destroying of any such products as are unsound, spoiled, adulterated, or unwholesome, and to regulate and prevent the bringing into the City or having or keeping within the City any such unsound, spoiled, adulterated or unwholesome products.

Dairies.

(42) To provide for the regulation and inspection of all dairies, slaughter houses and creameries that offer for sale or sell any of their products in the City.

Lodging, Tenement and Apartment Houses.

(43) To regulate lodging, tenement and apartment houses and to prevent the overcrowding of the same and to require that they be put and kept in proper sanitary condition.

Sewer Connection.

(44) To regulate the construction, repair, and use of sewers, sinks, gutters, wells, cesspools, and vaults, and to compel the connecting, cleaning, or emptying of the same, and to designate the time and manner in which the work shall be done.

Garbage.

(45) To provide for the treatment of and the collection and disposal of garbage, ashes, animal and vegetable refuse, dead animals, offal, rubbish and waste matter.

Licensing Business.

(46) To license for purposes of regulation and revenue all and every kind of business not prohibited by law to be transacted or carried on in the City, and all shows, exhibitions and lawful games carried on therein; to fix the rates of licenses upon the same, and to provide for the collection thereof by suit or otherwise.

Weights and Measures.

(47) To provide for the inspection and sealing of all weights and measures used in the City, and to enforce the keeping and use by dealers of proper weights and measures duly tested and sealed.

Taxation.

(48) To levy and collect taxes upon all the real and personal property within the City, subject to the limitations elsewhere in this Charter provided.

Erroneously Collected Taxes.

(49) To order the repaying by the treasurer of any taxes, percentages or costs erroneously or illegally collected.

Fees.

(50) To fix the fees and charges for all official services not otherwise provided for in this Charter.

Purchase of Property Under Execution.

(51) To provide for the purchase of property levied upon or under exe-

cution in favor of the City, but the amount bid on such purchase shall not exceed the amount of judgment and costs.

Sale of Useless Personal Property.

(52) To provide for the sale at public auction, after advertising for five days, of personal property unfit or unnecessary for the use of the City.

Street Grades.

(53) To establish or change the grade of any street or public place.

Light and Water.

(54) To provide for the lighting of the streets, highways, public places, and public buildings and for supplying the City with water for municipal purposes.

Boulevards.

(55) To set apart as a boulevard or boulevards any street or streets over which there is no existing franchise for any railroad and to regulate and prevent heavy teaming thereon; and when any such street shall have been set aside as a boulevard, no franchise for a railroad, interurban railway or street railway of any kind shall ever be granted upon such boulevard and no railroad track of any kind shall ever be laid thereon, unless an ordinance to that effect shall have been duly passed by popular vote, as provided in Section 89 or Section 90 of this Charter.

Closed or Abandoned Streets.

(56) Whenever any street or portion of a street shall be abandoned or closed by ordinance, to convey by deed such street or portion of street so abandoned or closed, to the owners of the land adjacent thereto in such wise as the Council shall deem that equity requires.

Regulation of Public Utility Rates.

(57) To fix and determine by ordinance in the month of February of each year, to take effect on the first day of July thereafter, the rates or compensation to be collected by any person, firm or corporation in the City for the use of water, heat, light, power or telephonic service, supplied to the City or the inhabitants thereof, and to prescribe the quality of the service.

Regulation of Street Railroads.

(58) To regulate street railroads, their tracks and cars, to compel the owners of two or more such street railroads using the same street to use the same tracks and to equitably divide the cost of construction and the cost of maintenance thereof between them.

Railroads to Keep Streets in Repair.

(59) To require every railroad company to keep the streets in repair between the tracks, and along and within the distance of two feet upon each side of the tracks occupied by the company, and to sprinkle the same.

Spur Tracks.

(60) To permit the laying down of spur or side tracks and running cars thereon, for the purpose of connecting warehouses, manufactories, or other business industries and enterprises with any line of railroads which do now or may hereafter enter the City, subject to such regulations and conditions as may be prescribed from time to time by the Council, such tracks not to be used as a main line or a part thereof; and also for the purpose of excavating and filling in a street or portion of a street or the adjoining land, and for such limited time as may be necessary for such purpose and no longer.

Such tracks must be laid level with the street and must be operated under such restriction as not to interfere with the use of the streets by the public. All permits granted under the provisions hereof shall be revocable at the pleasure of the Council.

Regulation of Poles and Wires.

(61) To cause the removal and placing under ground of all telephone, telegraph, electric light or other wires within the City, or within any designated portion thereof, and to regulate or prohibit the placing of poles and suspending of wires along or across any of the streets, highways and public places in the City.

Size and Location of Pipes.

(62) To regulate the size and location of all water pipes, gas pipes, and all other pipes and conduits laid or constructed in the streets and public places, and to require the filing of charts and maps of such pipes and conduits.

Elections.

(63) To make all rules and regulations governing elections not inconsistent with this Charter.

Civil Service Commission.

(64) To establish a Bureau of Civil Service and to appoint a Commission, to serve without compensation, to administer the same under rules and regulations to be made by the Council. Such Commission shall, among other things, provide for the classification of all employments in the administra-

tive service of the City not excepted by the provisions of this Charter, by the Council or by the people, for open, competitive and free examinations as to fitness, for an eligible list from which vacancies shall be filled, for a period of probation, before employment is made permanent, and for promotion on the basis of merit, experience and record.

Park Commission.

(65) To establish a Park Commission and to appoint Commissioners thereon, to serve without compensation, with such powers and duties as may be fixed by the Council.

National Independence.

(66) To allow not to exceed five hundred dollars in any one year for the celebration of the Anniversary of our National Independence.

Music and Promotion.

(67) To expend such sum as the Council shall deem proper, not to exceed five per centum of the property tax levy in one fiscal year for music and promotion.

General Grant of Power.

(68) To exercise such other powers as are now or may be hereafter granted by the legislature to the municipalities within the State, unless the exercise of such powers is contrary to the provisions of this Charter; to exercise all other needful powers for the efficient administration of the municipal government, whether such powers are herein expressly enumerated or not; and to enact appropriate legislation and do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City or of any of the provisions of this Charter.

Liberal Construction.

(69) Lastly, this grant of power is to be liberally construed for the purpose of securing the well being of the municipality and its inhabitants.

General Laws Followed.

(70) In the absence of any procedure for carrying out or effectuating any granted or implied power or authority, the general law of this State where applicable and where not inconsistent with any express provision of this Charter shall prevail and shall be followed.

Direct Legislation by People.

(71) The qualified voters of the City shall have power through the initiative and otherwise, as provided by this Charter and the general laws of the State, to enact appropriate legislation to carry out and enforce any of the general or implied powers of the City.

ARTICLE IV.

Elections.

Section 5. A municipal election shall be held in the City on the first Tuesday in June in the year 1911, and on the second Tuesday in April in 1913, and on the second Tuesday in April in every second year thereafter, and shall be known as the general municipal election. A second election shall be held when necessary, as provided in subdivision 20 of section 6 on the second Tuesday after said general municipal election, and shall be known as the second general municipal election.

All other municipal elections that may be held by authority of this Charter or of general law shall be known as special municipal elections.

Nomination and Election of City Officers.

Section 6. The mode of nomination and election of all elective officers of the City to be voted for at any municipal election shall be as follows and not otherwise:

Condition of Candidacy.

(1) The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

Form of Nomination Petition.

(2) The petition of nomination shall read substantially as follows; and shall contain the name of one candidate and no more; and shall be signed by at least twenty-five qualified and registered electors of the City:

PETITION OF NOMINATION.

State of California,
County of Stanislaus,
City of Modesto.

Prect.....

I, the undersigned, certify that I do hereby join in a petition for the nomination of.....whose residence is at No. .....Street, Modesto, or (if candidate for office of member of Board of Education).....Modesto City School District, for the office of.....

to be voted for at the municipal election to be held in the City of Modesto on the .....day of .....19.....
and I further certify that I am a qualified elector and am not at this time a signer of any other petition nominating any other candidate for the above named office, or, in case there are several places to be filled in the above named office, that I have not signed more petitions than there are places to be filled in the above named office; that my residence and occupation is as placed opposite my name.

Name. Address. Occupation.

Forms to Be Supplied by the City Clerk.

(3) It shall be the duty of the City Clerk to furnish upon application a reasonable number of forms of the above character of uniform size.

Requirements of Certificate.

(4) The signatures to the petition need not all be appended to one paper, but said petition may be presented in sections. The number of signatures to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified voter or taxpayer of the City shall be competent to solicit said signatures. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name purports to be thereunto subscribed, and no other affidavit thereto shall be required. Each signature, the genuineness of which is not called in question by the sworn affidavit of the alleged owner thereof, shall be presumed to be genuine. Unless and until it be proven otherwise by official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters and conforms to all other legal requirements.. Each signer of said petition shall add to his signature his place of residence giving the street and number, if any, or a description which will enable his place of residence to be determined, and his occupation. In case an elector has signed two or more conflicting petitions, such signatures shall be disregarded.

Date of Presenting Petition.

(5) Such petition may be presented to the City Clerk not earlier than forty-five days nor later than thirty days before the election. The Clerk shall endorse thereon the date upon which the petition was presented to him.

Examination of Petitions by City Clerk.

(6) When a petition of nomination is presented for filing to the City Clerk, he shall forthwith examine the same and ascertain whether it conforms to the provisions of this section and is signed by the requisite number of electors. If found not to conform thereto or not to be signed by the requisite number of electors, he shall there and then in writing designate on said petition the defect or omission or reason why such petition cannot be filed and shall return such petition to the person presenting the same. The petition may then be amended and again presented to the Clerk, within five days, as in the first instance. If the Clerk's certificate shall show the petition to be again insufficient, it shall be returned to the person presenting the same without prejudice, however, to the presenting of a new petition to the same effect, provided said petition be presented not later than thirty days before the election. The Clerk shall forthwith proceed to examine the same as herein before provided, and if found to be insufficient, it shall be by the Clerk rejected. If necessary, the Council shall provide extra help to enable the Clerk to perform satisfactorily and promptly the duties imposed by this section.

Withdrawal of Signature.

(7) Any signer to a petition of nomination may withdraw his name from the same by filing with the City Clerk a verified revocation of his signature before the filing of the petition by the Clerk, and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

Withdrawal of Candidate.

(8) Any person whose name has been presented under this section as a candidate may, not later than twenty-five days before the day of election cause his name to be withdrawn from nomination by filing with the City Clerk a request therefor, in writing and no name so withdrawn shall be printed upon the ballot. If upon such withdrawal the number of candidates remaining does not exceed the number to be elected, then other nominations may be made by filing petitions therefor not later than twenty days prior to such election.

Filing of Petitions.

(9) If either the original or the amended petition of nomination be found sufficiently signed as hereinbefore provided, the Clerk shall file the same in his office twenty-five days before the date of the election.

When a petition of nomination shall have been filed by the Clerk it shall

not be withdrawn nor added to, and no signature shall be revoked thereafter.

Preservation of Petitions.

(10) The City Clerk shall preserve in his office for a period of two years all petitions of nominations and all certificates belonging thereto filed under this section.

Election Proclamation.

(11) Immediately after such petitions are filed, the Clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall not later than twenty days before the election certify such list as being the list of candidates nominated as required by the Charter of Modesto, and the Council shall cause said certified list of names and the offices to be filled, designating whether for a full term or unexpired term, to be published in the proclamation calling the election at least ten successive days before the election in not more than two daily newspapers of general circulation published in he City of Modesto. Said proclamation shall conform in all respects to the general state law governing the conduct of municipal elections, now or hereafter in force, except as above required, and shall be signed by the Mayor and City Clerk.

Form of Ballots.

(12) The City Clerk shall cause the ballots to be printed and bound and numbered as provided for by state law, except as otherwise required in this Charter. The ballots shall contain the list of names and the respective offices, as published in the proclamation, and shall be in substantially the following form:

General (or Special) Municipal Election, City of Modesto. (Inserting date thereof.)

Instructions to Voters: To vote, stamp or write a cross (X) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector and obtain another.

Requirements of Ballot.

(13) All ballots printed shall be precisely of the same size, quality, tint of paper, kind of type, and color of ink, so that without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right hand side for Charter amendments or other questions to be voted upon at the municipal elections, as provided for under this Charter. The names of the candidates for each office shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

Every Nominee to Be On Ballot.

(14) The name of no candidate who has been duly and regularly nominated, and who has not withdrawn his name as herein provided, shall be omitted from the ballot.

Arrangement of Offices on Ballot.

(15) The offices to be filled shall be arranged in separate columns in the following order:

"For Mayor (if any) vote for one."

"For Councilman (if any) vote for (giving number)."

"For Member of Board of Education (if any) vote for (giving number)."

Space for Voting Cross.

(16) Half-inch squares shall be provided at the right of the name of each candidate wherein to mark the cross.

Blank Spaces for Additional Candidates.

(17) Half-inch spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

Sample Ballots.

(18) The Clerk shall cause to be printed sample ballots in form identical with the ballot to be used at the election and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail one such ballot to each voter entitled to vote at such election, so that all of said sample ballots shall have been mailed at least three whole days before said election.

Vote Necessary for Election.

(19) In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for all the candidates for that office shall be declared elected; in case there are two or more persons to be elected to an office, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected; provided, however, that no person shall be declared elected

to any office at such first election unless the number of votes received by him shall be greater than one-half the number of ballots cast at such election.

Second Election.

(20) If at any election held as above provided there be any office to which the required number of persons was not elected, then as to such office the said first election shall be considered to have been a primary election for the nomination of candidates, and a second election shall be held to fill said office. The candidates not elected at such first election, equal in number to twice the number to be elected to any given office, or less if so there be, who receive the highest number of votes for the respective offices at such first election, shall be the only candidates at such second election, provided, that if there be any person who, under the provisions of this subdivision, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes shall likewise become candidates for such office.

The candidates equal in number to the persons to be elected who shall receive the highest number of votes at such second election shall be declared elected to such office.

Date of Election.

(21) The said second election, if necessary to be held, shall be held on the second Tuesday after the first election.

Rules Governing Second Election.

(22) All the provisions and conditions above set forth as to the conduct of an election, so far as they may be applicable, shall govern the second election, except that proclamation of election need be published twice only, and provided also that the same precincts and polling places shall, if possible, be used.

Failure of Person Elected to Qualify.

(23) If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as hereinafter provided.

Informalities in Election.

(24) No informalities in conducting municipal elections shall invalidate the same, if they have been conducted fairly and in substantial conformity to the requirements of this Charter.

General Election Regulations.

(25) The provisions of the State law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of elections, so far as they may be applicable, shall govern all municipal elections, provided that the Council shall meet as a canvassing board and duly canvass the election returns within four days after any municipal election, except as otherwise in this Charter provided.

Qualifications of Voters.

(26) No person shall be entitled to vote at any election held under the provisions of this Charter, unless he shall be a qualified elector of the county, enrolled upon the great register thereof and in the precinct in which he votes at least twenty-five days next preceding said election and shall have resided in the City of Modesto for at least thirty days preceding such election. At any election held under the provisions of this Charter, the last printed great register of the county shall be used and any elector whose name is not upon such printed register shall be entitled to vote upon producing and filing with the Board of Election a certificate under the hand and official seal of the County Clerk showing that his name is registered and uncancelled upon the great register of the county; provided that he is otherwise entitled to vote.

Voting Machines.

Section 7. In case voting machines shall be used at municipal elections, the Council shall have power, by ordinance, to modify the provisions of Section 6 so far as may be necessary to adapt them to the use of voting machines.

ARTICLE V.

ELECTIVE OFFICERS.

Section 8. The elective officers of the City of Modesto shall be a Mayor, four Councilmen, and five members of the Board of Education.

The Council shall consist of the Mayor and four Councilmen, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

Elected at Large.

Section 9. The Mayor and Councilmen shall be elected at the general municipal election on a general ticket from the City at large.

Eligibility of Mayor and Councilmen.

Section 10. To be eligible for the office of Mayor, or Councilman, a person

must be a citizen of the United States and a qualified elector of the State of California, and of the City of Modesto for at least three years next preceding his election.

Vacancy in Council.

Section 11. If a vacancy shall occur in the office of Mayor or Councilman, the Council shall forthwith appoint a person to fill such vacancy. Said appointee shall possess such qualifications for eligibility as are set forth in Section 10 of this Article and shall hold office until his successor is duly elected and qualified. Such successor shall be chosen at the next general municipal election, or at the first succeeding special municipal election called for any other purpose, or as otherwise provided in recall proceedings for the recall of an officer, which election shall not take place less than forty (40) days after such vacancy occurs.

The person so elected shall hold office for the unexpired term. All the provisions of Section 6, Article IV shall apply to all elections held under this Section.

Mayor's Term of Office.

Section 12. The Mayor shall hold office for a term of four years from and after the first Monday in May after his election, and until his successor is elected and qualified; provided, that a Mayor shall be elected at the first municipal election held under this Charter, and said Mayor shall take office on the first day of July succeeding his election, and his term of office shall cease and determine upon the election and qualification of the Mayor elected at the general municipal election in 1915.

Councilmen's Term of Office.

Section 13. The Councilmen shall hold office for a term of four years from and after the first Monday in May after their election and until their successors are elected and qualified; provided, that four Councilmen shall be elected at the first general municipal election held under this Charter and shall take office on the first day of July succeeding their election; and provided, further, that the Councilmen first elected under this Charter shall so classify themselves by lot that the terms of two of said Councilmen shall cease and determine upon the election and qualification of the two Councilmen elected at the general municipal election in 1913, and that the terms of office of the other two of said Councilmen elected at the first general municipal election held under this Charter shall cease and determine upon the election and qualification of the two Councilmen elected at the general municipal election in 1915.

At each general municipal election after the first, held under this Charter, there shall be elected two Councilmen, and at every alternate general municipal election after the first, held under this Charter, a Mayor shall be elected.

Official Bonds.

Section 14. The Council shall fix the amount of the bonds and the methods of their approval to be required of appointive officers.

The approval of the official bonds must be endorsed thereon and signed by the officer or officers approving the same. All bonds, except the Clerk's bond, which shall be filed with the Mayor, when approved, shall be filed with the City Clerk. All the provisions of any law of this State, relating to officials bonds, not inconsistent with this Charter, shall be complied with.

Oath of Office.

Section 15. Every officer of the City, before entering upon the duties of his office, shall take the oath of office as provided for in the Constitution of this State, and shall file the same with the City Clerk.

Compensation of Mayor and Councilmen.

Section 16. The Mayor and Councilmen shall receive no compensation unless the electors by ordinance proposed and adopted in accordance with Section 89 or Section 90 of this Charter shall otherwise provide.

Administering Oaths. Subpoenas.

Section 17. Every elective officer, every chief official and every member of any Board or Commission provided for in this Charter, or by ordinance, adopted according to the provisions of this Charter, shall have the power to administer oaths and affirmations, and every such Board or Commission shall have power to issue subpoenas, to compel by subpoena the production of books, papers and documents, and to take and hear testimony concerning any matter or thing pending before such Board or Commission. If any person so subpoenaed neglect or refuse to appear, or to produce any book, paper or document as required by such subpoena, or shall refuse to testify before any such Board or Commission, or to answer any question which a majority of such Board or Commission shall decide to be proper or pertinent, he shall be deemed in contempt, and any such Board or Commission shall have the power to take the proceedings in that behalf provided by the general laws of this

State. The Chief of Police must, on request of any member of such Board or Commission, detail a police officer or police officers to serve such subpoena.

ARTICLE VI.

THE MAYOR.

The Chief Executive.

Section 18. The Mayor shall be the chief executive officer of the City and shall see that all the ordinances thereof are duly enforced. He shall be charged with the general oversight of the several departments of the municipal government. He shall see that all contracts made with the City are faithfully performed.

Mayor Pro Tempore.

Section 19. During the temporary absence or disability of the Mayor, the Vice-President of the Council shall act as Mayor pro tempore. In case of the temporary absence or disability of both the Mayor and Vice President, the Council shall elect one of its members to be Mayor pro tempore. In case of vacancy in the office of the Mayor, the Vice-President of the Council shall act as Mayor until such vacancy can be filled as provided in this Charter.

Mayor's Reports.

Section 20. The Mayor shall annually and from time to time give the Council information relative to the affairs of the City and recommend to its consideration such matters as he may deem expedient.

Mayor to Have City's Books Examined.

Section 21. The Mayor shall employ, for a stipulated compensation, at the beginning of each fiscal year, a certified public accountant, who shall examine, at least once each year the books, records and reports of the Auditor and of all officers and employees who receive or disburse City moneys, and the books, records and reports of such other officers and departments as the Mayor may direct, and make triplicate reports thereof, and present one each to the Mayor and Auditor and file one with the City Clerk. Such accountant shall have unlimited privilege of investigation, to examine under oath or otherwise all officers, clerks and employees of the City, and every such officer, clerk and employee shall give all required assistance and information to such accountant, and submit to him for examination such books and papers of his office as may be requested, and failure to do so shall be deemed and held to be a forfeiture and abandonment of his office. The Council shall provide for the payment of the services of such accountant, and fix the time at which such report shall be made and filed.

Supervision of Public Utility Companies.

Section 22. The Mayor shall be charged with the general supervision of all public utility companies in so far as they are subject to municipal control; he shall keep himself fully informed as to their compliance in all respects with the law, and he shall see that all franchises granted by the City are faithfully observed.

The Mayor shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law, and to revoke, cancel or annul all franchises that may have been granted by the City to any person, firm or corporation, which have become forfeitable in whole or in part, or which for any reason are illegal and void and not binding upon the City. The City Attorney, on demand of the Mayor, must institute and prosecute in the name of the City the necessary actions to enforce the provisions of this section.

Powers and Duties Prescribed by Ordinance.

Section 23. The Mayor shall exercise such other powers and perform such other duties as may be prescribed by law or by ordinance, or by resolution of the Council.

ARTICLE VII.

THE COUNCIL.

The Council, the Governing Body.

Section 24. All powers herein granted to and vested in the City of Modesto shall, except as herein otherwise provided, be exercised by a Council to be designated the Council of the City of Modesto. Said Council shall be the governing body of the City and, subject to the express limitations of this Charter, shall be vested with all powers of legislation in municipal affairs adequate to a complete system of local government consistent with the constitution of the State.

President and Vice-President.

Section 25. The Mayor shall be President of the Council and shall preside at its meetings when present. The Council shall elect one of its number to be Vice-President.

Meetings of Council.

Section 26. The Council shall, by ordinance, provide for the time and

place of holding its meetings and the manner in which its special meetings may be called.

Meetings to Be Public.

Section 27. All legislative sessions of the Council, whether regular or special, shall be open to the public.

Quorum.

Section 28. A majority of the Council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of pending business in like manner.

Rules of Proceeding.

Section 29. The Council shall determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at the Council meetings.

Ordinances and Resolutions.

Section 30. (1) The Council shall act only by ordinance or resolution.

Ayes and Noes.

(2) The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member, the ayes and noes shall be taken and recorded on any vote. Every member, when present must vote.

Majority Vote of Council.

(3) No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least three members of the Council.

Title.

(4) Every ordinance shall be preceded by a brief title which shall indicate the subject and purport thereof.

Enacting Clause of Ordinances.

(5) The ordaining clause of all ordinances adopted by the Council shall be, "The Council of the City of Modesto do ordain as follows," and the ordaining clause of all ordinances adopted in accordance with the provisions of Article XIII shall be, "The People of the City of Modesto do ordain as follows."

Requirements of Ordinances.

(6) No ordinance shall be passed by the Council on the day of its introduction nor within five days thereafter nor at any other time than at a regular meeting, nor until its publication at least once in full in the official newspaper of the City of Modesto at least three days before its adoption; and in case of amendment being made thereto before the final adoption of the ordinance, it must in like manner be republished in full as amended at least one day before its adoption as amended.

Ordinance Required in Certain Cases.

(7) No action providing for any specific improvement or the appropriation or expenditure of any public money, except a sum less than two hundred dollars; for the appropriation, acquisition, sale or lease of public property; for the levying of any tax or assessment; for the granting of any franchise; for establishing or changing fire limits; or for the imposing of any penalty, shall be taken except by ordinance; provided, that such exceptions be observed as may be called for in cases where the Council takes action in pursuance of a general law of the State.

Reconsideration.

(8) When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council, held not less than one week after the meeting at which such motion was made.

Signing and Attesting.

(9) All ordinances shall be signed by the Mayor and attested by the City Clerk.

Revision and Amendment.

(10) No ordinance shall be revised, re-enacted or amended by reference to its title only; but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this section for the adoption of ordinances.

Repeal.

(11) No ordinance nor section thereof shall be repealed except by ordinance adopted in the manner provided in this section.

Record of City Ordinances.

(12) A true and correct copy of all ordinances shall be kept and certified to by the City Clerk in a book marked "City Ordinances." Such record copy, with such certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the cus-

tody of the City Clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance in the usual way.

Protection of Absent Commissioner.

Section 31. No final action shall be taken in any matter concerning the special department of any absent Councilman unless such business has been made a special order of the day by action at a previous meeting of the Council, or such action is taken at a regular meeting of the Council.

When Offices Become Vacant.

Section 32. An elective office becomes vacant when the incumbent thereof dies, resigns, is removed from office under recall proceedings as provided in Section 88 of Article XIII, is adjudged insane, convicted of felony, or of an offense involving a violation of his official duties, or ceases to be a resident of the City, or neglects to qualify within the time prescribed by the provisions of this Charter, or shall have been absent from the State without leave for more than sixty consecutive days, or fails to attend the meetings of the body of which he is a member for a like period without being excused therefrom by said body.

ARTICLE VIII.

EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.

The Four Municipal Departments.

Section 33. The executive and administrative powers, authority and duties of the City, not otherwise provided for, shall be distributed among and assigned to four departments, as follows:

1. Department of Finance and Revenue.
2. Department of Public Health and Safety.
3. Department of Public Works.
4. Department of Public Supplies.

Council to Assign Duties to the Departments.

Section 34. The Council shall determine and assign the duties of the several departments, subject to the provisions of the preceding section; shall prescribe the powers and duties of officers and employees; may assign particular officers and employees to one or more of the departments; may require an officer or employee to perform duties in two or more departments, and may make such other rules and regulations, not inconsistent with this Charter, as may be necessary or proper for the efficient and economical conduct of the business of the City.

The Four Commissioners.

Section 35. The Council at its first regular meeting after the election of its members, shall designate by majority vote one Councilman to be Commissioner of Finance and Revenue, one to be Commissioner of Public Health and Safety, one to be Commissioner of Public Works and one to be Commissioner of Public Supplies. If the Council is unable to agree, the Mayor shall have authority to make such designation. The Council may change such designation, whenever it determines that the public service will be benefited thereby.

The Chief Officials.

Section 36. The chief officials of the City shall be City Clerk, Auditor, Assessor, Treasurer, Collector, Attorney, Engineer, Chief of Police, Fire Chief, Street Superintendent, Building Inspector, Sewer Inspector, Health Officer and five Library Trustees. They shall be appointed and may be removed by a majority vote of the Council. The Council, at any time when in its judgment the interests of the City so demand, may consolidate and place in the charge of one such officer the functions and duties of two or more such officers. The Council shall by ordinance or by resolution prescribe the duties of all the chief officials.

The Council shall at the first regular meeting after the election of its members, or as soon thereafter as practicable, proceed to the appointment of the chief officials of the City and the determination of their duties, as provided in this section.

Subordinate Officers and Employees.

Section 37. The Council shall have power by ordinance, or by resolution, to create and discontinue offices, deputyships, assistantships, boards and commissions, and employments other than those prescribed in this Charter, to provide the modes of filling them, to prescribe the duties pertaining thereto, according to its judgment of the needs of the City, and to determine the mode of removing any such officer, deputy, assistant or employee, except as otherwise provided in this Charter.

Compensation of Officers and Employees.

Section 38. The compensation of all City officers provided for by Section 36 of this Charter, except Library Trustees, who shall receive no remuneration, shall be by salary to be fixed by ordinance. The Council shall also fix the compensation of all other officers and employees of the City except as in this Charter otherwise provided. No officer or employee shall be allowed any

fees, perquisites, emoluments, rewards or compensation, aside from the salary or compensation as fixed by the Council, but all fees received by him in connection with his official duties shall be paid by him into the City treasury.

Reports of Departments.

Section 39. Each department and commission shall annually, on such date as may be fixed by the Council, render to the Mayor a full report of all operations of such department or commission for the year.

Reports to Be Published.

Section 40. The Council shall provide for the publication of the annual reports of the Mayor and the several departments and commissions.

Councilman to Hold No Other Office.

Section 41. No member of the Council shall hold any other municipal office or hold any office or employment the compensation of which is paid out of the municipal moneys; or be elected or appointed to any office created or the compensation of which is increased by the Council, while he was a member thereof, until one year after the expiration of the term for which he was elected.

No member of the Council during the term for which he shall have been elected shall be eligible to fill a vacancy in the office of Mayor.

Officers Not to Be Interested in Contracts or Franchises.

Section 42. No officer or employee of the City shall be directly or indirectly interested in any contract, work or business of the City, or in the sale of any article, the expense, price or consideration of which is paid for from the treasury or by assessment levied by any act or ordinance; nor in the purchase or lease of any real estate or other property belonging to the City or which shall be sold for taxes or assessments or by virtue of legal process at the suit of the City. No officer or employee of the City shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

Any contract or agreement made in contravention of this Section shall be void.

Any violation of the provisions of this Section by such officer or employee of the City shall be deemed a misdemeanor.

The Council shall enforce the provisions of this Section by appropriate legislation.

Political and Religious Tests.

Section 43. No appointment to position under the City government shall be made or be withheld by reason of any religious or political opinions or affiliations or political services, and no appointment to or selection for or removal from any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected by such opinions, affiliations or service.

ARTICLE IX.

FINANCE AND TAXATION.

The Fiscal Year.

Section 44. The fiscal year of the City shall commence upon the first day of July of each year, or at such other time as may be fixed by ordinance.

Tax System.

Section 45. The Council shall by ordinance provide a system for the assessment, levy and collection of all City taxes not inconsistent with the provisions of this Charter.

The Council shall have power to avail itself by ordinance of any law of the State of California now or hereafter in force and comply with the requirements thereof whereby assessments may be made by the Assessor of the county in which the City of Modesto is situated and taxes collected by the tax collector of said county for and on behalf of the City of Modesto.

Other provisions of this Charter concerning the assessment, levy and collection of taxes shall be subject to the provisions of any such ordinance while the same shall be in force.

Department Estimates of Annual Requirements.

Section 46. On such date in each year as shall be fixed by the Council, the heads of departments, offices, boards and commissions shall send to the commissioner of finance and revenue a careful estimate in writing of the amounts, specifying in detail the objects thereof, required for the business and proper conduct of their respective departments, offices, boards and commissions, during the next ensuing fiscal year.

Annual Estimate of City's Requirements and Revenue.

Section 47. On such date in each year as shall be fixed by the Council, the commissioner of finance and revenue shall submit to the Council an estimate of the probable expenditures of the City government for the next ensuing fiscal year, stating the amount required to meet the interest and

sinking funds for the outstanding funded indebtedness of the City, and the wants of all the departments of the municipal government in detail, and showing specifically the amount necessary to be provided for each fund and department; also an estimate of the amount of income from fines, licenses and other sources of revenue exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

Annual Budget.

Section 48. The Council shall meet annually prior to fixing the tax levy, and make a budget of the estimated amounts required to pay the expenses of conducting the business of the City government for the next ensuing fiscal year. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, office, board or commission as the Council may deem advisable.

Board of Equalization.

Section 49. The Council shall meet at their usual place of holding meetings on the first Monday in August of each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day for at least five days. They shall have power to hear complaints and to correct, modify, strike out or to raise any assessment, provided that notice shall be given to the party whose assessment is to be raised.

Annual Tax Levy.

Section 50. The Council must finally adopt, not later than its first regular meeting in September, an ordinance levying upon the assessed valuation of the property in the City, subject to the provisions of this Charter, a rate of taxation upon each one hundred dollars of valuation sufficient to raise the amounts estimated to be required in the annual budget, less the amounts estimated to be received from fines, licenses and other sources of revenue. They shall then deliver the assessment roll to the auditor, who shall compute and carry out the amount of the tax so levied upon each parcel of property contained in said assessment roll. The corrected list for each tax shall be the assessment roll of said tax for said year, and it shall be certified by the auditor as being the assessment roll of said tax.

Limit of Tax Levy.

Section 51. The tax levy authorized by the Council to meet the municipal expenses for each fiscal year shall not exceed, except as herein provided, the rate of one dollar on each one hundred dollars of the assessed value of all real and personal property within the City. Such levy shall be placed in the general fund, which may be apportioned by the Council, except as otherwise provided in this Charter.

Bond Tax. Library Tax.

Section 52. The Council shall have power to levy and collect taxes, in addition to the taxes herein authorized to be levied and collected, sufficient to pay the interest and maintain the sinking fund of the bonded indebtedness of the City; and to levy not exceeding twenty cents on each one hundred dollars of the assessed value of all real and personal property within the City for the support and maintenance of free public libraries and reading rooms.

Tax Liens.

Section 53. All taxes and assessments levied together with any percentage imposed for delinquency and the cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March in each year, and may be enforced by actions in any court of competent jurisdiction to foreclose such liens, or by a sale of the property affected and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance; provided, that when real estate is offered for sale for City taxes due thereon, the same shall be struck off and sold to the City, in like case and in like manner and with like effect and with like right of redemption, as it may be struck off and sold to the state when offered for sale for state and county taxes; and the Council shall have power to provide for the procedure to be followed in such sales to the City and redemption thereafter.

Duties of the Auditor.

Section 54. Money shall be drawn from the treasury only upon warrants as herein authorized. Every demand against the City, from whatever source, including the free public library, when allowed by the Council or proper board, shall be signed by the president and secretary or clerk of such body, and a warrant, numbered and dated the same as the demand issued and signed by the same officers, and both must, before it can be paid, be presented to the auditor, who shall satisfy himself whether the money is legally due and its payment authorized by law. If he allow it, he shall endorse upon the warrant the word "allowed," and the date of such allowance, and sign his

name thereto. No demand shall be approved, allowed, audited or paid unless it specify each special item, and the date thereof. It shall be the duty of the auditor to be constantly acquainted with the exact condition of the treasury. He shall, on application of any person indebted to the City, holding money payable into the City treasury or desiring to pay money therein, certify to the treasurer the amount thereof, to what fund applicable, and by whom to be paid. He shall charge the treasurer with the amount received. It shall be his duty to apportion among the several funds all public money at any time in the City treasury, not by law or ordinance specifically apportioned and appropriated, and forthwith notify the treasurer of such apportionment or appropriation. He shall countersign and deliver to the proper officers, all licenses and other receipts, charging them therewith, and taking their receipt therefor. He shall at the first regular meeting of each month, or oftener if required, report in writing to the Council the condition of each fund in the treasury. He shall keep a complete set of books for the City, in which he shall set forth in a plain and business-like manner, every money transaction of the City, so that he can at any time tell the exact condition of the City's finances, and draw all warrants on the treasury. He shall perform such other duties as may be required of him by this Charter or by ordinance.

Disposition of Money Collected.

Section 55. Every officer collecting or receiving any moneys belonging to or for the use of the City shall on the day of the receipt thereof settle for the same with the auditor and immediately pay all the same into the treasury, on the order of the auditor, for the benefit of the funds to which such moneys severally belong. The Council may provide, in its discretion, for the deposit of the City moneys in banks in accordance with the state law.

Uniform Accounts and Reports.

Section 56. The Council shall prescribe uniform forms of accounts, which shall be observed by all officers and departments of the City which receive or disburse moneys. Whenever an act shall be passed by the State Legislature calling for uniform municipal reports, the City authorities shall be governed thereby.

ARTICLE X.

PUBLIC WORK AND SUPPLIES.

Form of Contracts.

Section 57. All contracts shall be drawn under the supervision of the City Attorney. All contracts must be in writing, executed in the name of the City of Modesto by an officer or officers authorized to sign the same, and must be countersigned by the auditor, who shall number and register the same in a book kept for that purpose.

Progressive Payments on Contracts.

Section 58. Any contract may provide for progressive payments if in the ordinance authorizing or ordering the work permission is given for such a contract. But no progressive payments can be provided for or made at any time which with prior payments, if there have been such, shall exceed in amount at that time seventy-five per cent. of the value of the labor done and the materials used up to that time, and no contract shall provide for or authorize or permit the payment of more than seventy-five per cent of the contract price before the completion of the work done under said contract and the acceptance thereof by the proper officer, department or board.

Public Work to Be Done by Contract.

Section 59. In the erection, improvements and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, or water front, or in or about embankments or other works for protection against overflow and erosion, and in furnishing any supplies and materials for the same, or for any other use by the City, when the expenditure required for the same exceeds the sum of two hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after advertising for sealed proposals for the work contemplated, in five successive issues of the official newspaper of the City of Modesto. Such notice shall distinctly and specifically state the work contemplated to be done. Provided, however, the Council may reject any and all bids and readvertise for bids, or provide for the work to be done by the department of public works. In case no bid is received, the Council may likewise provide for the work to be done by the department of public works.

Contracts for Official Advertising.

Section 60. The Council shall let annually contracts for the official advertising for the ensuing fiscal year. For this purpose the Council shall advertise for one day, setting forth distinctly and specifically the work contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used at the rate or rates named in the bids. The Council shall let the contracts for such official advertising to the lowest responsible bidder publishing a daily newspaper in the

City, which is a newspaper of general circulation and has been in existence at the time of the awarding of the contract at least one year; provided, that the Council may reject any or all bids and advertise for new bids.

The newspaper to which the award of such advertising is made shall be known and designated as the "official newspaper of the City of Modesto."

Contracts for Lighting.

Section 61. No contract for lighting streets, public buildings, places or offices shall be made for a longer period than one year, nor shall any contract to pay for electric light or any illumination material at a higher rate than the minimum price charged to any other consumer be valid.

Hours of Labor.

Section 62. The maximum time of labor or service required of any laborer, workman or mechanic employed upon any municipal work, whether so employed directly by the City and its officers, or by a contractor or subcontractor, shall be eight hours during any one calendar day.

Collusion With Bidder.

Section 63. Any officer of the City, or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, materials or supplies at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information, or who shall wilfully mislead any bidder in regard to the character of the materials or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to those called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of materials or supplies than has been actually received shall be deemed guilty of malfeasance and shall be removed from office.

Collusion by Bidder.

Section 64. If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bid being made, then the contract so awarded shall be null and void, and the Council shall advertise for a new contract for said work, or provide for such public work to be done by the department of public works.

ARTICLE XI.

FRANCHISES.

Property Rights of the City Inalienable.

Section 65. The rights of the City in and to its water front, wharf property, land under water, public landings, wharves, docks, streets, highways, parks and all other public places, except as otherwise provided in this Charter, are hereby declared inalienable.

No Use of Streets Without a Franchise.

Section 66. No person, firm, or corporation shall ever exercise any franchise or privilege mentioned in this Article except in so far as he or it may be entitled to do so by direct authority of the constitution of California or of the constitution or laws of the United States, in, upon, over, under or along any street, highway or other public place in the City unless he or it shall have obtained a grant therefor in accordance with the provisions of this Article.

Franchise to Use Streets.

Section 67. Every franchise or privilege to construct or operate street, suburban or interurban railroads along, upon, over, or under any street, highway, or other public place, or to lay pipes or conduits or to erect poles or wires or other structures in, upon, over, under or along any street, highway or other public place in the City for the transmission of gas or electricity, or for any purpose whatever, shall be granted upon the conditions in this Article provided, and not otherwise.

Applications for Franchise.

Section 68. An applicant for a franchise or privilege shall file with the Council an application therefor, and thereupon the Council, if it propose to grant the same, shall, or on petition signed by qualified and registered electors equal in number to twenty percentum of the entire vote cast at the last preceding general municipal election, requesting it to grant the same, must advertise the fact of said application together with a statement that it is proposed to grant the same, in the official newspaper of the City. Said advertisement shall contain a copy of the proposed ordinance making such grant. The publication of such advertisement must be run in the said paper in ten successive issues and must be completed not less than twenty and not more than thirty days before any further action can be taken on such application. The form of such petition, signatures, and verification and duties of the Clerk in respect thereto, provided in Section 89 (for petitions for recall) shall

apply to petitions for grant of franchise referred to in this section.

Conditions of Grant.

Section 69. The advertisement must state the character of the franchise or privilege proposed to be granted, and if it be a street, suburban or interurban railroad, the route to traversed; that sealed bids therefor will be opened at a stated time and place, and that the franchise will be awarded to the bidder offering to pay to the City during the life of the franchise the highest percentage of the gross annual receipts received from the use, operation or possession of the franchise, provided that such percentage be not less than two per cent. of said gross annual receipts during the first five years, not less than three per cent. during the next five years, not less than four per cent. during the third five years, and not less than five per cent. for the rest of the life of the franchise.

Bidding for the Franchise.

Section 70. At the time of opening the sealed bids, any responsible person, firm, or corporation, present in person, or represented, may bid for such franchise or privilege not less than one-fourth of one per cent. of the gross annual receipts above the highest sealed bid therefor, and such bid so made may be raised not less than one-fourth of one per cent. of the gross annual receipts, by any other responsible bidder, and such bidding may continue until finally such franchise shall be struck off, sold and awarded by the Council to the person, firm or corporation offering the highest percentage of the gross annual receipts arising from the use, operation or possession of such franchise; provided, that if, in the judgment of the Council, no adequate or responsible bid has been made, the Council may withdraw such franchise from sale or advertise for new bids.

Deposit as Guarantee of Good Faith.

Section 71. Every application and bid for franchise under this Article shall be accompanied by a cash deposit of five hundred dollars ($500), or a certified check therefor as a guarantee of the good faith of the applicant or bidder, and as a fund out of which to pay all expenses connected with such application and the granting of such franchise.

Upon the franchise being awarded, all deposits made by unsuccessful bidders shall be returned. The deposits of the successful bidder shall be retained until the filing and approval of the surety bond hereinafter provided for, whereupon the remainder of such deposit, after the payment therefrom of all expenses incurred by the City in connection with the advertising and awarding of such franchise, shall be returned.

Open Competition.

Section 72. No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this Article, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale, which shall in any wise favor one person, firm or corporation, as against another in bidding for the purchase thereof.

Bond.

Section 73. The successful bidder for any franchise or privilege awarded under this Article shall file a bond running to the City to be approved by the Council, in the penal sum to be prescribed by the Council and set forth in the advertisement for bids conditioned that such bidder shall well and truly observe and faithfully perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and surety upon such bond.

Such bond shall be filed with the Council within five days after such franchise is awarded, and within thirty days after the filing and approval of such bond such franchise shall by the Council be granted by ordinance (subject to the provisions of Section 87 of this Article) to the person, firm or corporation to whom it shall have been struck off, sold or awarded, and, in case such bond shall not be filed, the award of such franchise shall be set aside, and any money deposited in connection with the awarding of the franchise shall be forfeited, and the franchise shall, in the discretion of the Council, be readvertised and again offered for sale in the same manner and under the same restrictions as hereinbefore provided.

Life of Franchises.

Section 74. The maximum length of time for which a franchise or privilege to use the streets, highways, waters, or other places of the City may be granted to any person, firm or corporation shall be twenty-five (25) years.

Beginning and Completion of Work.

Section 75. Work under any franchise granted in accordance with the terms of this Article shall be commenced in good faith within no more than four months from the date of the final adoption of the ordinance granting

such franchise, and, if not so commenced within said time, said franchise shall be forfeited. Work under any franchise so granted shall be completed within the time fixed for such completion in the ordinance granting such franchise, which time shall be not more than three years from the date of the final adoption of the ordinance granting said franchise, and if not so completed within said time, said franchise shall be forfeited; provided, that if good cause be shown, the Council may by resolution extend the time for completion thereof not exceeding three months.

Regulation of Grants, Franchises and Privileges.

Section 76. The grant of every franchise or privilege shall be subject to the right of the City, whether reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including among other things the right to pass and enforce ordinances to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service and accommodations for the people and insure their comfort and convenience.

Rates and Charges.

Section 77. The grant of every franchise or privilege shall be subject to the right of the City, whether reserved or not, to prescribe and regulate the rates, fares, rentals or charges made for the service rendered under such franchise. The grant of every franchise for a street, suburban or interurban railroad shall provide that all United States mail carriers and all officials, policemen and firemen of the City shall at all times, while in the actual discharge of their duties, be allowed to ride on the cars of such railroad within the boundaries of the City, without paying therefor and with all the rights of other passengers.

Right of the City to Assume Ownership.

Section 78. Every ordinance granting any franchise shall provide that at the expiration of the period for which the franchise was granted, or at any time before as stated in the ordinance, the City, at its election and upon the payment of a fair valuation therefor to be made in the manner provided in the ordinance making the grant, may purchase and take over to itself the property and plant of the grantee in its entirety, but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation. Or it may be provided in the ordinance granting any franchise that the property and plant of the grantee shall, at the expiration of the period for which the franchise was granted, become the property of the City without any compensation to the grantee.

No Conveyance Necessary for City's Ownership.

Section 79. Every ordinance granting any franchise shall further provide that upon the payment by the City of a fair valuation in the manner provided in the ordinance, the plant and property of the grantee shall become the property of the City by virtue of the grant in payment thereunder, and without the execution of any instrument or conveyance, and in case it is provided in the ordinance granting any franchise that the property and plant of the grantee shall, at the expiration of the period for which it was granted, become the property of the City without any compensation to the grantee, the property and plant of the grantee shall then become the property of the City by virtue of the grant and without the execution of any instrument or conveyance.

Lease or Assignment of Franchise.

Section 80. Any franchise granted by the City shall not be leased, assigned or otherwise alienated without the express consent of the City, and no dealings with a lessee or assignee on the part of the City to require the performance of any act or payment of any compensation by the lessee or assignee shall be deemed to operate as such consent; provided, that nothing herein shall be construed to prevent the grantees of such franchise from including it in a mortgage or trust deed executed for the purpose of obtaining money for corporate objects.

Street Sprinkling, Cleaning and Paving.

Section 81. Every grant of any franchise or privilege in, over, under or along any of the streets, highways or public places in the City for railway purposes, shall be subject to the conditions that the person, firm or corporation exercising or enjoying the same shall sprinkle, clean, keep in repair, and pave and repave so much of said street, highway or other public place as may be occupied by said railway, as lies between the rails of each railway track, and between the lines of double track, and for a space of two feet outside of said tracks.

Examination of Company's Books. Audit.

Section 82. The City of Modesto by its Auditor, Deputy Auditor, or accountants authorized by the Auditor, or by the Council, shall have the right

at all reasonable times to examine all the books, vouchers and records of any person, firm or corporation exercising or enjoying any franchise or privilege granted by the City, for the purpose of verifying any of the statements of gross receipts provided for, and for any other purpose whatsoever connected with the duties or privileges of the City, or of such person, firm or corporation, arising from this Charter, or from the ordinance granting the franchise, and may audit the same at the end of each year.

Annual Reports of Company.

Section 83. Every person, firm or corporation operating any business under a franchise granted under this article shall file annually with the City Auditor on such date as shall be fixed by the Council a report for the preceding year.

Such report shall be in writing, verified by the affidavit of such person or persons, or officer of the corporation, as the Council shall direct, and and shall contain a statement, in such form and detail as shall from time to time be prescribed by the Council, of all the gross receipts arising from all the business done by said person, firm or corporation, within the City of Modesto for the year immediately preceding such report. Such report shall contain such further statements as may be required by the Council concerning the character and amount of business done, and the amount of receipts and expenses connected therewith, and also the amount expended for new construction, repairs and betterments during such year.

Payment of Gross Receipts.

Section 84. The stipulated percentage of gross receipts shall be paid annually at the time of filing the annual report. Failure to pay such percentage shall work a forfeiture of the franchise. The provisions as to the payment of gross receipts shall apply to every person, firm or corporation using or operating the works constructed under such franchise.

Forfeiture for Non-Compliance.

Section 85. Every ordinance granting any franchise or privilege shall provide for the termination and forfeiture thereof for any breach or failure to comply with any of the terms, limitations or conditions thereof, and in all such cases the Council shall have power to declare the termination and forfeiture of any such franchise or privilege, the same as though in each instance such power was expressly reserved.

Franchise Not in Use Forfeited.

Section 86. All franchises and privileges heretofore granted by the City which are not in actual use or enjoyment, or which the grantees thereof have not in good faith commenced to exercise, shall be declared forfeited and invalid, unless such grantees or their assigns shall, within six months after this Charter takes effect, in good faith commence the exercise and enjoyment of such privilege or franchise.

Manner of Granting and Renewing Franchises.

Section 87. No exclusive franchise shall ever be granted, and no franchise shall be renewed prior to one year before its expiration. No franchise shall be granted, renewed or extended except by ordinance, and no such grant or franchise, or renewal or extension thereof shall be of any validity until the same shall have been approved by a majority of the electors voting thereon at a general or special election. Said election shall be held not less than fifteen and no more than thirty days from and after the final passage of such ordinance by the Council granting such franchise, or a renewal or an extension thereof. It shall be the duty of the Council to provide for said election. Said election shall be held in all respects as are other elections under this Charter, relating to the submission of ordinances to a vote of the electors. The ballots used at such election shall read as follows:—

For the Franchise, Yes.
For the Franchise, No.

stating the nature of the franchise ordinance in terms sufficient to identify it. If a majority of the qualified electors voting on said proposed franchise ordinance shall vote in favor thereof, such ordinance shall become a valid and binding ordinance of the City, and said franchise shall thereupon become valid and effective.

ARTICLE XII.

THE RECALL.

Section 88. The holder of any elective office may be removed by the qualified electors.

Method of Procedure.

(1) The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors qualified to vote at a municipal election in said City, if held at the date of the filing of said petition, equal in number to at least fifteen per centum of the entire vote cast at the last preceding general municipal election, demanding an election to determine whether or not said officer shall be removed from office, shall

be addressed to and filed with the City Clerk, and said petition shall contain a general statement of the grounds for which the removal is sought, in not more than two hundred (200) words, which statement shall not be open to review.

Signatures to Petition.

(2) The signatures to the petition need not all be appended to one paper, but said petition may be presented in sections. The number of signatures to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified voter or taxpayer of the City shall be competent to solicit said signatures. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating that all the signatures to the attached section were made in his presence, and that each signature to the section is the genuine signature of the person whose name purports to be thereunto subscribed, and no other affidavit thereto shall be required. Each signature, the genuineness of which is not called in question by the sworn affidavit of the purported owner thereof, shall be presumed to be genuine. Until it be proven otherwise by official investigation, it shall be presumed that the petition presented, contains the signatures of the requisite number of qualified signers, and conforms to all other legal requirements. Each signer of said petition shall add to his signature his place of residence, giving the street and number, if any, or a description which will enable his place of residence to be determined and his occupation.

(3) Said petition shall be presented to the City Clerk for filing, and, within ten days from the date of the presentation of such petition, the Clerk shall examine and ascertain from the records of registration whether or not said petition is signed by the requisite number of electors qualified to sign said petition, and if necessary the Clerk may employ extra help for that purpose, and the Clerk shall attach to said petition his certificate showing the result of said examination. If, by the said certificate, the petition is shown to be insufficient as to the number and genuineness of signatures, it may be amended by additional signatures, within five days from the date of said certificate. The Clerk shall, within five days after such amendment, make like examination of the amended petition, and, if his certificate shall show the same to be insufficient in the same particulars, it shall be returned to the person presenting the same without prejudice, however, to the presentation of a new petition to the same effect.

Recall Election.

(4) If the petition shall be found to be sufficient as to the number and genuineness of signatures, the Clerk shall forthwith file the same in his office and a special election shall be held within twenty days from said filing to determine whether the electors will recall said officer. All arrangements for said election shall be made and the same shall be conducted, returned, and the results thereof declared, in all respects as are all other municipal elections provided for in this Charter, except as in this section otherwise provided, and except also that the Clerk shall give and sign the notice or proclamation of election, appoint the election officers, and designate the polling place in each election precinct.

Officer's Justification.

(5) In the published call for the election there shall be printed in not more than two hundred (200) words the reasons for demanding the recall of the officer as set forth in the recall petition and in not more than two hundred (200) words the officer may justify his course in office.

Voting. Canvass of Returns.

(6) At such recall election, the ballots shall read:

"Shall ———— (naming the officer) be recalled? Yes."

"Shall ———— (naming the officer) be recalled? No."

If a majority of the electors voting on the recall of the officer sought to be removed, shall vote in favor of such recall, said officer shall thereupon be deemed removed from office and his incumbency thereof shall terminate upon the declaration of this result of said election by the Canvassing Board thereof. In the published call for said election the Clerk shall name three disinterested electors who shall act as a Canvassing Board thereof. It shall be the duty of said Canvassing Board to canvass the returns of said election and to declare the result thereof in the same manner and with the same force and effect as otherwise herein provided for the Canvassing Boards of general municipal elections.

Election of Successor.

(7) Within three days after the canvass of the vote of said election, the Clerk shall issue the call for the election for the purpose of electing a successor to the officer so removed. Said election shall be called and held in all respects as herein before provided for the election for the recall. The power and duties of the Clerk shall be the same as in said recall election. Said election shall be held upon notice of not less than twenty and not more than

twenty-five days, and said election shall be held within thirty days from the date of the canvass of the vote of the recall election. Nominations shall be made in the manner provided in Section 6 relating to the nomination of Councilmen, except that petitions for nominations shall be filed in the office of the City Clerk at least ten days prior to the date of the holding of said election, and shall contain the requisite number of signatures when filed, without power of amendment. The Clerk shall forthwith determine the sufficiency as to the number and genuineness of signatures of the petition. If the same be insufficient in these particulars, it shall be rejected, and if sufficient, the name of the person nominated therein shall be placed upon the official ballot as a candidate for the office for which he was nominated.

All the provisions of sub-divisions 19, 20, 21 and 22 of Section 6, of Article IV of this Charter shall be applicable to all elections held under this Section to fill vacancies caused by a recall of an officer, except that the second election, if necessary, shall be held one week after the first election and except also in case such second election is held that notice of the same shall be given, and the same shall be held in all respects as hereinbefore provided in this Section for the election for the recall. In the event that, by reason of the recall, there shall not remain in office a majority of the City Council, it shall be the duty of the City Clerk to appoint qualified persons to fill such vacancies until the election and qualification as herein provided, of the successors to the officers recalled. In the event that by reason of the recall, there shall not remain in office a majority of the Board of Education, it shall be the duty of the Superintendent of Schools of Stanislaus County to appoint qualified persons to fill such vacancies until the election and qualification as herein provided, of the successors to the officers recalled.

Disqualification of Recalled Officer.

(8) No person recalled under the provisions of this Section shall be eligible for election or appointment to any office in the City of Modesto for a period of one year from and after the date of his recall.

New Officer. When to Qualify.

(9) Every person elected to fill a vacancy caused by the recall of an elective officer, as in this section provided, shall within four days from the declaration of the result of the election at which he was elected, qualify and assume the powers and duties of the office to which he was elected.

ARTICLE XIII.

THE INITIATIVE.

Section 89. Any proposed ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to the percentage hereinafter required. The petition shall set forth a copy of the proposed ordinance.

Signatures to Petition.

(1) The signatures to the petition need not all be appended to one paper, but said petition may be presented in sections. The number of signatures to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified voter or taxpayer of the City shall be competent to solicit said signatures. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating that all the signatures to the attached section were made in his presence, and that each signature to the section is the genuine signature of the person whose name purports to be thereunto subscribed, and no other affidavit thereto shall be required. Each signature, the genuineness of which is not called in question by the sworn affidavit of the purported owner thereof, shall be presumed to be genuine. Until it be proven otherwise by official investigation, it shall be presumed that the petition presented, contains the signatures of the requisite number of qualified signers and conforms to all other legal requirements. Each signer of said petition shall add to his signature his place of residence, giving the street and number, if any, or a description which will enable his place of residence to be determined, and his occupation.

Filing and Examination of Petition.

(2) Said petition shall be presented to the City Clerk, and, within ten days from the date of the presentation of such petition, the Clerk shall examine and ascertain from the records of registration whether or not said petition is signed by the requisite number of electors qualified to sign said petition, and, if necessary, the Clerk may employ extra help for that purpose, and the Clerk shall attach to said petition his certificate showing the result of said examination. If, by the said certificate, the petition is shown to be insufficient, as to the number and genuineness of the signatures, it may be amended by additional signatures within five days from the date of said certificate. The Clerk shall, within five days after such amendment, make like examination of the amended petition, and, if his certificate shall show the same to be insufficient in the same particulars, it shall be returned to the person presenting the same without prejudice, however, to the presenta-

tion of a new petition to the same effect. If the petition shall be found to be sufficient, the Clerk shall forthwith file the same with the Council.

Initiative Election.

(3) If the petition accompanying the proposed ordinance be signed by qualified electors equal in number to fifteen per centum of the entire vote cast at the last preceding general municipal election, the Council must, without alteration, submit the proposed ordinance to the electorate at the next general municipal election that shall occur at any time after twenty days from the date of the Clerk's certificate of sufficiency. But if such petition is signed by qualified electors equal in number to twenty-five per centum of said vote and contains a request that such proposed ordinance be submitted to a vote of the people at a special municipal election, then the Council must, without alteration, submit the same to the electorate at a special municipal election to be called and held within sixty days from the filing of such petition.

Initiative Ballots.

(4) The ballots used when voting upon such proposed ordinance shall contain the words or words similar thereto: "For the ordinance," and "Against the ordinance" (stating the nature of the proposed ordinance in terms sufficient to identify it). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such proposed ordinance shall become a valid and binding ordinance of the City.

Several Ordinances at One Elections.

(5) The Council may also propose and submit at said election any ordinance to the electors, and such ordinance, upon receiving a majority of the votes of the electors, voting thereon, shall be deemed to have been adopted and shall be the valid and binding ordinance of the City. Any ordinance adopted by the electors under the provisions of this Section cannot be repealed or amended, except by a vote of the electors obtained in the manner hereinbefore stated, unless such ordinance shall otherwise provide.

Limit to Special Election.

(6) Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section; provided, that there shall not be held under this section of the Charter more than one special election at any period of twelve months.

Publication of Popular Ordinance.

(7) Whenever any ordinance or proposition is required by this Charter to be submitted to the voters of the City at any election, the Council shall cause the ordinance or proposition to be printed and it shall be the duty of the Clerk to enclose a printed copy thereof in an envelope with a sample ballot and mail the same to each voter, at least three days prior to the election, and the Council may also order such ordinance or proposition to be printed in the official newspaper of the City and published in like manner as ordinances adopted by the Council are required to be published.

ARTICLE XIV.

THE REFERENDUM.

Mode of Protesting Against Ordinances.

Section 90. No ordinance passed by the Council shall go into effect before fifteen days from the time of its final passage except when otherwise required by the general laws of the State or by the provisions of this Charter, and except the ordinance making the annual tax levy, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by a four-fifth vote of the Council; provided, that no grant of any franchise shall be construed to be an urgency measure.

If, during said fifteen days, a petition signed by qualified electors of the City equal in number to at least fifteen percentum of the entire vote cast at the last preceding general municipal election, protesting against the passage of such ordinance, be presented to the Council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Council to reconsider such ordinance, and, if the same be not entirely repealed, the Council shall submit the ordinance to the vote of the electors of the City, at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof.

The form of such petition, signatures, verification and duties of the Clerk in respect thereto provided in Section 89 shall apply to petitions for the referendum.

All the proceedings relative to the submission of ordinances by initiative shall apply to ordinances submitted by a referendum petition, and the vote thereon shall be of the same force and effect as provided in Section 89.

Reference of Measures to Popular Vote.

Section 91. Any ordinance or measure that the Council or the qualified

electors of the City shall have authority to enact, the Council may of its own motion submit to the electors for adoption or rejection at a general or special municipal election, in the same manner and with the same force and effect as is provided in this Charter for ordinances or measures submitted on petition. At any special election called under the provisions of this Charter, there shall be no bar to the submission of other questions to a vote of the electors in addition to the ordinances or measures herein provided for, if said other questions are such as may legally be submitted at such election. If the provisions of two or more measures approved or adopted at the same election conflict, then the measure receiving the highest affirmative vote shall control.

Penal Election Laws Applicable.

Section 92. All the penal laws of the State of California, relating to elections, shall apply to all elections held under this Charter.

ARTICLE XV.

POLICE COURT.

Section 93. There is hereby created in and for the City of Modesto a court which shall be known as the Police Court of the City of Modesto. Said Court shall consist of one judge, who shall be appointed by the Council and who shall serve during its pleasure and who shall receive such compensation as the Council shall determine.

Section 94. Said court shall have exclusive jurisdiction:

(1) In all prosecutions for violations of the City ordinances.

(2) In all actions for the recovery of any fine, penalty or forfeiture, and the enforcement of any obligation or liability prescribed or created by the City ordinances and in which the sum sued for does not amount to three hundred dollars.

Section 95. Within the City limits said Court shall have concurrent and co-ordinate jurisdiction with township justice courts in all matters and things in which said justice courts now or may hereafter have jurisdiction; and the judge of said police court shall have as aforesaid like authority, power and jurisdiction as the justices of said justice courts.

Section 96. Appeals may be taken to the Superior Court of the State of California, in and for the County of Stanislaus, from the judgments and orders of said police court, in all cases in which appeals now are or may hereafter be provided by law to be taken to said Superior Court from said justice courts and police courts.

Section 97. In all proceedings in and appeals from said police court, the pleadings, practice, procedure and laws now applicable or that may hereafter be made applicable to said justice or police courts, are hereby adopted and made applicable to said police court.

Section 98. All fines and other moneys received or collected by the judge of said police court for or on account of the City of Modesto shall immediately be paid into the City treasury.

Section 99. All actions and proceedings pending and undetermined in the existing recorder's court of the City of Modesto shall be proceeded with, heard, tried and determine in said police court hereby provided for, before said judge, the same as if said action or proceedings had been originally commenced in said police court.

Section 100. Nothing in this Charter shall be so construed as to prevent a justice of the peace from holding the office of police judge.

Section 101. The Judge of the Police Court shall keep a record of the proceedings of the Police Court in all matters and cases before said court. Separate dockets shall be kept for civil and criminal cases.

Section 102. The City shall furnish for said court a suitable court room and office and the necessary dockets and all blanks and other books and stationery necessary in the transaction of its business and the said court shall always be open for the transaction of business, except on Sundays and other non-judicial days.

Section 103. The Chief of Police of the City of Modesto shall execute and return all processes issuing from the Police Court and all orders of the Police Judge. The Chief of Police shall enforce the execution of all the laws and ordinances within the jurisdiction of the City; and for the suppression of any riot, public tumult, disturbance of the peace or resistance against the law or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may be hereafter conferred upon sheriffs by the laws of this state, and shall in all respects be entitled to the same protection, and his lawful orders shall be executed by deputies, police officers and watchmen in the City of Modesto, and every citizen shall also lend aid when required for the arrest of offenders in the maintenance of public order. It shall be the duty of the Chief of Police to prosecute before the Police Judge all breaches or violations of or non-compliance with any City ordinance or law within the jurisdiction of the Police Judge, which has come to his knowledge. The Chief of Police shall have charge of the City prison and prisoners and of any chain

gang which may be established by the Council. He shall devote his entire time to the discharge of the duties of his office, and subject to such rules and regulations as the Council may prescribe, shall have control of the police force. He shall have power to suspend or remove any member of the Police force for disobedience of any lawful order, for violation of rules and regulations of the Police Department, and for neglect of duty, or for conduct unbecoming a member of the police force. He shall immediately file with the Mayor written charges, specifying the grounds upon which such suspension or removal is made. In addition to the duties in this Charter specified, the Chief of Police shall discharge all the duties required of him by ordinance of the City or resolution of the Council, or by law, or by the provisions of this Charter.

ARTICLE XVI.

EDUCATIONAL DEPARTMENT.

Section 104. The School Department of the City of Modesto shall comprise all the schools within the City of Modesto, the Modesto School District, and all territory that is now or may hereafter be annexed thereto for school purposes, and shall be known as "Modesto City School District," which shall succeed to all the obligations, property, rights, and privileges of the Modesto School District. It shall consist of Primary, Grammar, and High schools as now established or that may hereafter be established, and may, at the discretion of the Board of Education, include technical, industrial, kindergarten and night schools; **provided**, that no school money shall be used for technical, industrial, or night schools, or kindergarten when such use would prevent the Board of Education from maintaining primary, grammar and high schools for ten months in each school-year.

Section 105. All territory included within the limits of the Modesto City School District or that may hereafter be included within such limits, but not within the City limits, shall be deemed a part of said City for the purpose of holding the general municipal elections and shall constitute one or more separate election precincts, and the qualified electors therein shall vote only for members of the Board of Education and on questions submitted to a vote of the people at special or general elections pertaining to school matters; and said outside territory shall be deemed a part of said City for all matters connected with the school department and with the levying and collecting of all taxes for school purposes.

Section 106. The government of the school department of the City shall be vested in a Board of Education which shall consist of five members, to be elected from the school district at large, as herein provided, to be called members of the Board of Education, who shall serve without compensation; **provided**, that the present Modesto School District as above named in Section 104 shall continue as such until the election and qualification of the first members of the Board of Education elected at large. The members of this Board shall be elected at the first general municipal election held under this Charter. At their first meeting the members so elected shall so classify themselves by lot that two of the members shall go out of office on the first Monday in May, nineteen hundred thirteen, and three on the first Monday in May, nineteen hundred fifteen, and thereafter said members shall hold office for a period of four years, and until their successors are elected and have qualified. At the second general municipal election held under this Charter two members shall be elected, and at the third general municipal election three members, to fill the places of those members whose terms expire, and thereafter, alternating, two and three shall be elected at the succeeding general municipal elections.

Section 107. No person shall be eligible to become a member of the Board of Education who is not at least twenty-five years of age and who has not been a resident of the Modesto City School District for the two years next preceding the day of his election.

Sectfon 108. The officers for all elections called by the Board of Education shall receive not more than three dollars each as compensation for their services.

Section 109. Members of the Board of Education shall enter upon the discharge of the duties of office upon the first Monday in May after their election, and shall meet upon that day and organize by choosing one of their members as President who shall serve as President for one year, provided that the members of the Board of Education first elected under this Charter shall take office on the first day of July succeeding their election.

Vacancies in the Board of Education shall be filled for the unexpired term by the remaining members of the Board, and, if there be less than a majority of such board remaining in office, then such appointment shall be made by the Superintendent of Schools of Stanislaus County.

The Board of Education shall hold a regular meeting at least once each month. Special meetings may be called by the President, or by the written

request of three members, but no business shall be transacted at such meetings that has not been distinctly stated in the call.

A majority of the members of the Board of Education shall constitute a quorum, but a vote of three members shall be required for passing all orders for the expenditure of moneys, for the election of appointive officers, and for the election of teachers.

The sessions of the Board shall be public and its minutes open to inspection. The Board may determine its rules of procedure, but the ayes and noes shall be taken and recorded when demanded by any member, and they shall be taken and recorded on all questions involving elections and appointments or the expenditure of money. All warrants shall be signed by the President, or the president pro tem. when acting for him, and by the Secretary of the Board.

Section 110. The powers and duties of the Board of Education are as follows:

(1) To establish and maintain public schools as herein provided, to change, consolidate and discontinue the same and to establish boundaries for each or any school building or any grade or grades in each or any school building, within which boundaries pupils must attend their respective buildings or grades.

(2) To manage and control the school property, including the power to grade, fence and improve all school lots and the sidewalks and the streets bordering the same; to select plans for school houses and erect, contract for and to supervise and control the construction of the same; to alter, repair, rent and provide school houses and to furnish the same with proper school furniture, apparatus and appliances and to provide the same with fire escapes, fuel, lights, water and all necessary supplies; to insure the same, including the contents, against fire, and to incur such other incidental expenses as may be deemed necessary.

(3) To take and hold in fee or otherwise, in trust for the Modesto City School District, any real estate and personal property that may have been acquired or may hereafter be acquired by purchase, bequest or donation, for the use and benefit of the public schools of said Modesto City School District or for any educational purpose; to dispose of, at public or private sale, such personal property as shall be no longer required by the department, and to sell, exchange or lease any of such property; and to make in the name of said Modesto City School District, conveyances of real property sold under the provisions hereof: **provided**, that the proceeds of any such sale or exchange of real property shall be exclusively applied to the purchase of other lots for school purposes or to the erection of school houses, and provided further, that such sale or exchange of real property be ratified by a majority vote of the qualified electors of said Modesto City School District voting thereon at a general election or at a special election.

(4) Te receive and manage property or money acquired by bequest or donation in trust for the benefit of any school, educational purpose, or school property, including gymnasiums, museums, and athletic parks, or grounds.

(5) To sue for any and all property belonging to, or claimed by the Board of Education for the Modesto City School District, and to prosecute and defend all actions at law or equity necessary to recover and maintain the full enjoyment and possession of said property, and to require the services of the City Attorney therefor without compensation, and, when desirable, to employ other or additional counsel. The City Attorney shall be the legal adviser of the Board without compensation.

(6) To discharge all legal incumbrances now existing or which may hereafter exist, upon any school property within the Modesto City School District.

(7) The Board of Education shall, at the same meeting at which it elects its President in each year, appoint a Secretary, who shall not be one of their own number, and shall prescribe the duties and fix the salary of such Secretary who shall hold office during the pleasure of the Board.

(8) The Board of Education shall determine annually the amount of school tax necessary for the maintenance of public schools and for carrying into effect all provisions of law regarding the same, and the amount so determined by said Board of Education shall be reported in writing to the Board of Supervisors of Stanislaus County on or before the first day of August in each year. This report shall specify the proper items and the amount of money required for each, in addition to state and county school money, to maintain primary and grammar schools, the amount required for high school purposes, and the amount required for other public schools of the Modesto City School District as are then established, and the amount that will be required to pay all fixed and incidental expenses, including the repairing of school buildings and the improving of school grounds.

(9) The Board of Supervisors of Stanislaus County is hereby authorized and required to levy and the tax collector of said county to collect as school tax the amount required by the Board of Education.

(10) The Board of Education may, when in their judgment it is advis-

able, call an election and submit to the electors of the Modesto City School District the question whether a tax shall be levied to furnish additional school facilities for said district, or for building one or more school houses, or for any or all of these purposes. Such elections shall be called and the moneys employed in accordance with the general laws of the State governing elections for district school tax.

(11) The Board of Education may, when in their judgment it is advisable and must, when petitioned by a majority of the heads of families residing in the district, as shown by the last school census, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money to purchase school property, and for the building of one or more school houses, for insuring the same and supplying the same with furniture and necessary apparatus, and for improving the grounds, and for liquidating any indebtedness already incurred for such purposes, and for refunding any outstanding valid indebtedness evidenced by bonds or warrants thereof.

(12) All moneys raised for school purposes shall be paid into the County Treasury of Stanislaus County to the proper school fund of said Modesto City School District and shall be drawn out in the same manner as state and county moneys apportioned to the Modesto City School District are drawn.

(13) To employ and dismiss the superintendent of schools and such teachers, janitors, school census marshals, truant officers, and such other persons as may be necessary to carry into effect the powers and duties of the Board; to prescribe the duties to be performed by all such employees, and to fix, alter, allow and order paid their salaries or compensation, and to withhold for good and sufficient cause, the whole or any part of the salary or compensation of any person or persons employed as aforesaid; **provided,** that no teacher shall be dismissed during the school year without good and sufficient cause; **and provided further,** that the Board shall notify in writing on or before the first day of June of each year all teachers whose services will not be required for the ensuing year.

(14) To prescribe the course of study for the several schools; to make suitable rules and regulations for the promotion of pupils from primary and grammar schools and high schools, and in the name of the Modesto City School District to grant diplomas to pupils who have completed the respective courses of study of the schools therein.

(15) To prohibit any child under six years of age from attending the public schools, except where kindergartens are established, and to fix the age at which children may attend the kindergarten at not less than five years.

(16) To admit non-resident children to any department of the schools at their discretion, on the payment within the school year at such time as the Board may direct, of tuition fees not less in amount than the per capita cost per pupil per year, based on the average attendance for the previous year.

(17) To furnish books to children of parents unable to furnish them, but the books so furnished shall belong to the Modesto City School District and shall be returned to the Superintendent at the end of each term of school.

(18) The Board of Education shall elect a Superintendent of Schools, who shall be a practical educator of not less than five years successful experience in teaching; such superintendent shall serve for a term of two years from and after the day of his election. He shall not engage in any occupation or undertaking that will interfere directly or indirectly with the performance of the duties of his office, and, while he holds said office, he shall not be a candidate for any elective office in Stanislaus County or the State of California.

(19) The Superintendent shall be the executive officer of the Board of Education and shall enforce all rules and regulations adopted by the Board, and perform such other duties as the Board shall designate. He shall have general supervision of the schools and direct the methods of instruction therein; and his decision in all school matters within his jurisdiction shall be final, unless formally overruled by the Board of Education.

The Superintendent shall assign duly elected teachers to such grades and schools as he shall deem best for the schools and he shall designate the duties of the various teachers, but no such assignment or designated duty shall conflict with a general rule of the Board and, further, the Board may by a vote of four members, change any assignment. He shall have full direction of the classification and promotion of pupils and, under the rules of the Board, of the discipline of the schools. He shall call such general and special meetings of the teachers as he shall deem advisable for carrying into effect the directions of the Board and Superintendent and for the instruction of the teachers in the science and art of teaching, and he shall enforce attendance on such meetings according to rules approved by the Board. He shall, at the regular meeting in the month of June of each year, submit to the Board a detailed statement of the amount, as nearly as may be ascer-

tained, of fuel, blanks, school stationery, books for indigent children, library books, apparatus, and such other school supplies as may be necessary for the City schools and the Board for the following year. He shall annually, and oftener when desired, make a full report of the condition of the schools under his jurisdiction, and shall make such recommendations as he shall deem best.

Section 111. The Secretary of the Board of Education shall keep a true record of the proceedings of the Board and a correct account of the expenditures allowed by it, and for what purpose, so that he can at any time make an exhibit, in the aggregate and in detail, of the outlays for the schools. He shall be the general custodian of all books, papers and documents belonging to the Board. He shall, in June of each year, make to the Board of Education a full and detailed report of the receipts and expenditures of the department and the amounts paid respectively, for teachers, janitors, rents, repairs, lands, buildings, furniture, apparatus, stationery, fuel and other expenses. He shall perform such other duties as the Board may require of him.

Section 112. All other matters pertaining to the school department of said Modesto City School District not specifically provided in this Charter, shall be governed by the general School Law of the State of California.

ARTICLE XVII.

AMENDMENTS.

Section 113. This Charter may be amended at intervals of not less than two years by proposals therefor, submitted by the Council to the qualified electors of the City at a general or special election, held at least forty days after the publication of such proposals for twenty days in a daily newspaper of general circulation in said City and ratified by a majority of the electors voting thereon, and approved by the legislature as provided in the constitution of the State of California. Whenever fifteen per centum of the qualified voters of the City shall petition the Council to submit any proposed amendment or amendments to this Charter to the qualified voters thereof for approval the Council must submit the same. In submitting any such amendment or amendments to the Charter any alternative article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to the others.

Section 114. The petition herein provided for must be made, presented, examined, and certified to in the manner and form required for petitions in Section 89, Article XIII of this Charter.

Section 115. The Council must make all necessary provisions for submitting proposed amendments to the electors, and shall canvass the votes in the same manner as in other elections.

Section 116. The ballots used at such elections shall contain the words, "For the Amendment" and "Against the Amendment" (stating the nature of the proposed amendment).

ARTICLE XVIII.

MISCELLANEOUS.

When this Charter Takes Effect.

Section 117. For the purpose of the qualification and of the nominating of candidates and electing Mayor, Councilmen and Members of the Board of Education in accordance with this Charter, this Charter shall take effect from the time of the approval of the same by the legislature; for all other purposes it shall take effect on the first day of July, 1911.

First Election Under This Charter.

Section 118. The Board of Trustees of the City of Modesto in office at the time this Charter is approved by the legislature shall provide for the holding of the first election of officers under this Charter, shall canvass the votes, and declare the result.

Terms of Incumbents in Office.

Section 119. The members of the Board of Trustees and all other elective officers of the City of Modesto in office at the time of the approval of this Charter by the legislature shall continue to hold office and discharge their duties until the election and qualification of the Mayor, Councilmen and Members of the Board of Education, respectively, first elected under this Charter.

The term of each of all the other officers in office at the time this Charter takes effect shall cease and terminate when the Council first elected hereunder shall by resolution so declare.

Existing Ordinances Continued in Force.

Section 120. All lawful City ordinances, resolutions and regulations in force at the time this Charter takes effect and not inconsistent with the provisions thereof are hereby continued in force until the same shall be duly amended or repealed.

Conduct of Legal Proceedings.

Section 121. The City Attorney shall be the prosecuting attorney in behalf of the people of all criminal cases arising from violations of the provisions of this Charter and the ordinances of the City, and shall attend to all suits and proceedings in which the City may be legally interested; provided, the Council shall have control of all litigation of the City, and may employ other attorneys to take charge of any litigation or to assist the City Attorney therein.

Violation of Charter and Ordinances.

Section 122. The violation of any provision of this Charter or of any ordinance of the City shall be deemed a misdemeanor, and may be prosecuted by the authorities of the City in the name of the people of the State of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of a provision of this Charter or of any ordinance may be imprisoned in the City jail or, if the Council by ordinance shall so prescribe, in the county jail of the county in which the City of Modesto is situated, in which case the expense of such imprisonment shall be a charge in favor of such county against the City of Modesto.

Section 123. The word "City" wherever it occurs in this Charter, means the City of Modesto, and every Commissioner, Commission, Department, Board, Officer, Employee, wherever mentioned in this Charter, means the Commissioner, Commission, Department, Board, Officer or Employee, as the case may be, of the City of Modesto. The word "Council" when used in this Charter means the Council of the City of Modesto.

Section 124. After the result of an election is declared, or when an appointment is made, the City Clerk under his hand and official seal shall issue a certificate therefor and serve the same by registered mail through the United States Post Office in the City of Modesto, addressed to the person or persons elected or appointed.

Section 125. If for any reason, the first general municipal election is not held on the day herein provided for, the validity of this Charter and of such election is not affected thereby, and the Board of Trustees of the City of Modesto then in office must provide for the holding of such election as soon as possible thereafter.

CERTIFICATE.

WHEREAS, the City of Modesto, a City containing a population of more than three thousand five hundred and less than ten thousand inhabitants on the eleventh day of April, 1910, at a general election held under and in accordance with the provisions of section eight of Article XI of the constitution of the State of California, did elect J. W. BELL, J. R. BROUGHTON, L. L. DENNETT, L. E. De YOE, THOMAS DOWNEY, Z. E. DRAKE, JOHN DUNN, Sr., S. P. ELIAS, C. W. EVANS, E. I. FISHER, N. C. HANSCOM, GEORGE PERLEY, AL SCHMIDT, B. J. SMITH and G. A. WILLIAMSON a Board of Freeholders to prepare and propose a Charter for said City;

BE IT KNOWN, that pursuant to the provisions of the constitution and within a period of ninety days after said election, said Board of Freeholders has prepared and does propose the foregoing as and for the Charter of the City of Modesto.

IN WITNESS WHEREOF, we have hereunto set our hands this 8th day of July, 1910.

S. P. ELIAS,
President of the Board of Freeholders.
J. W. BELL,
J. R. BROUGHTON,
L. L. DENNETT,
THOS. DOWNEY,
Z. E. DRAKE,
L. E. DeYOE,
C. W. EVANS,
JOHN DUNN, Sr.,
E. I. FISHER,
N. C. HANSCOM,
GEO. PERLEY,
AL SCHMIDT,
B. J. SMITH,
G. A. WILLIAMSON.

ATTEST:
L. E. De YOE,
Secretary of the Board of Freeholders.
Filed this 8th day of July, 1910, at 11 A. M.

C. A. POST,
President of the Board of Trustees of the City of Modesto, California.